

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

ENVIRONMENTAL LAW & POLICY
CENTER and NATIONAL WILDLIFE
FEDERATION

No. 1:18-cv-12626-TLL-PTM

Plaintiffs,

v.

UNITED STATES COAST GUARD,
REAR ADMIRAL JOANNA N.
NUNAN, in her official capacity as the
Ninth Coast Guard District Commander,

Defendants,

ENBRIDGE ENERGY, LIMITED
PARTNERSHIP

Defendant-Intervenor.

**STIPULATION FOR STAY OF LITIGATION DUE TO
LAPSE OF APPROPRIATIONS**

In accordance with E. D. Mich. LR 7.1(a)(1), Plaintiffs, the Environmental Law & Policy Center and the National Wildlife Federation (collectively “ELPC”), Federal Defendants the United States Coast Guard and Rear Admiral Nunan (collectively, “Coast Guard”), and Defendant-Intervenor Enbridge Energy, Limited Partnership (“Enbridge”) (collectively “Parties”), by and through their undersigned counsel, submit this stipulation for a stay of the litigation in the above-captioned case due to lapse of appropriations. The stay will affect the deadlines set forth in

the Scheduling Order for Administrative Review, ECF No. 19, including the dates in which ELPC is to informally raise with the Coast Guard any disputes regarding the completeness of the administrative record or the need to supplement the record, the filing of any motions regarding the record, and the filing of motions for summary judgment.

In support of this Stipulation, the Parties assert the following:

1. At the end of the day on December 21, 2018, the appropriations act that had been funding the United States Department of Justice expired and appropriations to the Department lapsed. The same is true for the Department of Homeland Security and its underlying agencies, including the United States Coast Guard. The Coast Guard is the federal agency that the Department of Justice is representing in this matter.
2. Absent an appropriation, Department of Justice attorneys and employees of the Coast Guard are prohibited from working, even on a voluntary basis, except in very limited circumstances, including “emergencies involving the safety of human life or the protection of property.” 31 U.S.C. § 1342.
3. Counsel for the Department of Justice therefore requests a stay of the litigation until after Congress has restored appropriations to the Department of Justice and the Department of Homeland Security.

4. If the requested stay is granted, the undersigned counsel for Department of Justice will notify the Court promptly after Congress has appropriated funds for the Department. At that point, the Parties will file a stipulation, or the Coast Guard will file a motion, to lift the stay and include a calculation of new deadlines for those set forth in the Scheduling Order, ECF No. 19.
5. ELPC joins this stipulation but states that ELPC remains very concerned about the risk of an oil spill in the area covered by the Northern Michigan Area Contingency Plan challenged in this case, and the inadequacy of a response under that plan, yet recognizes that in light of the lapse in government appropriations and the Department of Justice and Coast Guard furloughs, it will not be possible for the government to comply with the existing scheduling order.
6. Enbridge does not oppose the requested stay of litigation.

Therefore, although the federal government greatly regrets any disruption caused to the Court and the other litigants, and for the good-cause described herein, the Parties agree that the litigation in this case be stayed until after Department of Justice attorneys are permitted to resume their usual civil litigation functions.

Respectfully submitted,

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January 15, 2019

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ORDER FOR STAY

Based on the stipulation of the parties, Plaintiffs Environmental Law & Policy Center and the National Wildlife Federation (collectively “ELPC”), Defendants United States Coast Guard and Rear Admiral Nunan (collectively, “Coast Guard”), and Intervenor Enbridge Energy, Limited Partnership (“Enbridge”), the Court HEREBY ORDERS that:

This case is stayed until after Congress has restored appropriations to the U.S. Department of Justice and the U.S. Department of Homeland Security.

Promptly after restoration of appropriations by Congress to the Department of Justice, the Parties shall file a stipulation, or the Coast Guard shall file a motion, to lift the stay and include a calculation of new deadlines for those set forth in the Scheduling Order, ECF No. 19.

SO ORDERED.

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

Dated: January 22, 2019